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INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON 25, D. C.

Industry Circular No. 61- 23

May 24, 1961

REFUND OR CREDIT OF TAX ON BEER REMOVED FROM THE MARKET

Brewers, and others concerned:

Recently, it has come to our attention that some brewers have apparently misunderstood the provisions of section 5056, I.R.C., the law authorizing refund or credit of the tax on beer removed from the market, and the implementing provisions of the regulations, 26 CFR 245.164 and 26 CFR 245.165. These brewers have filed claims for refund or credit of the tax on beer removed from the market in instances where they have not allowed credit to their customers for the beer so removed.

Paragraph (c), section 5056, I.R.C., as amended, provides in part that no claim for refund or credit of the tax shall be allowed on beer removed from the market if the claimant (brewer) was indemnified by insurance or otherwise in respect of the tax. 26 CFR 245.164 and 245.165 restate this provision of the law. As the price of beer removed from the brewery for consumption or sale includes the tax thereon, the brewer is indemnified (reimbursed) for the tax at the time of sale; therefore, no claim for refund or credit of the tax is allowable until the brewer has made refund, or allowed credit, to his customer for the beer removed from the market. This is a restatement of the official ruling issued as Revenue Ruling 60-201, I.R.B. 1960-20.

Brewers must take every precaution to ensure that claims filed for refund or credit of tax are proper and valid, and are reminded that the filing of a fraudulent claim not only leads to forfeiture of the entire claim under section 2514, Title 28, U.S.C., but constitutes a felony under section 1001, Title 18, U.S.C., and section 7206, Title 26, U.S.C.

Correspondence in regard to this Industry Circular should refer to its number and be addressed to your assistant regional commissioner (alcohol and tobacco tax).

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